

109TH CONGRESS  
1ST SESSION

# H. R. 4507

To establish a Federal program to provide reinsurance for State natural disaster insurance programs.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2005

Mrs. MALONEY introduced the following bill; which was referred to the Committee on Financial Services

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## A BILL

To establish a Federal program to provide reinsurance for State natural disaster insurance programs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Natural Catastrophe Insurance Act of 2005”.

6       (b) TABLE OF CONTENTS.—The table of contents for  
7       this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Congressional findings.
- Sec. 3. Program authority.
- Sec. 4. Qualified lines of coverage.
- Sec. 5. Covered perils.
- Sec. 6. Contracts for reinsurance coverage for eligible State programs.
- Sec. 7. Minimum level of retained losses and maximum Federal liability.

Sec. 8. Disaster Reinsurance Fund.

Sec. 9. Definitions.

Sec. 10. Regulations.

Sec. 11. Termination.

Sec. 12. Annual study of cost and availability of disaster insurance and program need.

Sec. 13. GAO study of Federal program for reinsurance for all solvency-threatening events.

## 1 **SEC. 2. CONGRESSIONAL FINDINGS.**

2 The Congress finds that —

3 (1) in the last quarter-century, multiple signifi-  
 4 cant natural disasters have severely impacted the  
 5 nation and caused major insured losses;

6 (2) in 2004, four major hurricanes hit the  
 7 United States, and each was among the 10 most  
 8 costly hurricanes in the Nation's history;

9 (3) in 2005, the United States sustained the  
 10 most costly storm in its history, Hurricane Katrina,  
 11 which caused insured losses estimated at between  
 12 \$40 billion and \$60 billion, and suffered two other  
 13 storms, Wilma and Rita;

14 (4) the rising costs resulting from natural dis-  
 15 asters have placed a strain on the market for home-  
 16 owners and commercial insurance in many areas,  
 17 jeopardizing the ability of consumers adequately to  
 18 insure their homes and businesses;

19 (5) the threat of insufficient insurance capacity  
 20 threatens to increase the number of uninsured  
 21 homes and businesses, which in turn increases the

1 risk of mortgage or business defaults and the ad-  
2 verse impact such default can have on the Nation's  
3 financial system;

4 (6) in order to ensure capacity at a reasonable  
5 price, a national plan needs to be implemented that  
6 allows the private market to operate at full capacity  
7 while at the same time supporting that market  
8 through State and Federal resources;

9 (7) the risk of catastrophes may best be ad-  
10 dressed by a public-private partnership involving pri-  
11 vate industry, State and local governments, and the  
12 Federal Government, each playing their appropriate  
13 role;

14 (8) it is appropriate that efforts to improve in-  
15 surance availability be designed and implemented at  
16 the State level;

17 (9) some States have created State catastrophe  
18 funds to ensure the continued availability of home-  
19 owners or business insurance against a particular  
20 peril or to spread the costs of such insurance;

21 (10) while existing State programs have to date  
22 been adequate to cover losses from natural disasters,  
23 it is foreseeable that a small percentage of such  
24 events may exceed the financial capacity of these  
25 programs;

1           (11) providing Federal reinsurance for such  
2       State funds, at the highest levels of insured losses,  
3       will improve the effectiveness of State programs and  
4       will increase the likelihood that claims will be paid  
5       in the event of a natural mega-catastrophe—that is,  
6       a natural event which threatens the solvency of the  
7       insurance industry as a whole;

8           (12) it is necessary to provide a Federal rein-  
9       surance program that will promote stability in the  
10      homeowners and business insurance markets and en-  
11      courage the continued growth of capacity by the pri-  
12      vate and capital markets;

13          (13) such a Federal program should not dis-  
14      place the ability of the private entities or the capital  
15      markets to provide adequate reinsurance capacity to  
16      address insurance market dislocations caused by  
17      natural disasters, nor should it discourage risk-  
18      spreading by individual insurers in accordance with  
19      sound business practices; and

20          (14) any Federal program must be founded  
21      upon sound actuarial principles and structured in a  
22      manner that minimizes bureaucracy and the poten-  
23      tial impact on the Treasury.

1 **SEC. 3. PROGRAM AUTHORITY.**

2 (a) IN GENERAL.—The Secretary of the Treasury  
3 shall carry out a program under this Act to make reinsur-  
4 ance coverage available through contracts for reinsurance  
5 coverage under section 6, which shall be made available  
6 for purchase only by eligible State programs.

7 (b) PURPOSE.—The program shall be designed to  
8 make reinsurance coverage under this Act available to im-  
9 prove the availability of homeowners' insurance and insur-  
10 ance for businesses for the purpose of facilitating the pool-  
11 ing, and spreading the risk, of catastrophic financial losses  
12 from natural disasters and to improve the solvency of the  
13 markets for homeowners' insurance and business insur-  
14 ance.

15 (c) CONTRACT PRINCIPLES.—Under the program  
16 under this Act, the Secretary shall offer reinsurance cov-  
17 erage through contracts with covered purchasers, which  
18 contracts—

19 (1) shall not displace or compete with the pri-  
20 vate insurance or reinsurance markets or capital  
21 markets;

22 (2) shall minimize the administrative costs of  
23 the Federal Government; and

24 (3) shall provide coverage based solely on in-  
25 sured losses within the State of the eligible State  
26 program purchasing the contract.

1 **SEC. 4. QUALIFIED LINES OF COVERAGE.**

2 A contract for reinsurance coverage made available  
3 under this Act shall provide insurance coverage against—

4 (1) residential property losses to homes (includ-  
5 ing dwellings owned under condominium and cooper-  
6 ative ownership arrangements) and the contents of  
7 apartment buildings; and

8 (2) real property losses to businesses and the  
9 contents of business properties.

10 **SEC. 5. COVERED PERILS.**

11 A contract for reinsurance coverage made available  
12 under this Act shall cover losses that are insured or rein-  
13 sured by the eligible State program purchasing the con-  
14 tract, that are proximately caused by—

15 (1) windstorm (hurricane, cyclone, or tornado);

16 (2) earthquake (including any fire following);

17 (3) winter catastrophe (snow, ice, or freezing);

18 (4) fire;

19 (5) tsunami;

20 (6) flood;

21 (7) volcanic eruption; or

22 (8) hail

23 and the Secretary shall, by regulation, define the natural  
24 disaster perils under this section.

1 **SEC. 6. CONTRACTS FOR REINSURANCE COVERAGE FOR**  
2 **ELIGIBLE STATE PROGRAMS.**

3 (a) ELIGIBLE STATE PROGRAMS.—A program shall  
4 be eligible to purchase a contract under this section for  
5 reinsurance coverage under this Act only if the State enti-  
6 ty authorized to make such determinations certifies to the  
7 Secretary that the program is a State-operated program  
8 that complies with the following requirements:

9 (1) PROGRAM DESIGN.—The program shall be a  
10 State-operated—

11 (A) insurance program that—

12 (i) offers coverage for—

13 (I) homes (which may include  
14 dwellings owned under condominium  
15 and cooperative ownership arrange-  
16 ments) and the contents of apart-  
17 ments to State residents because of a  
18 finding by the State insurance com-  
19 missioner or other State entity au-  
20 thorized to make such determination  
21 that such a program is necessary in  
22 order to provide for the continued  
23 availability of such residential cov-  
24 erage for all residents; or

25 (II) business properties and the  
26 contents of business properties to

1 businesses located in the State be-  
2 cause of a finding by the State insur-  
3 ance commissioner or other State en-  
4 tity authorized to make such deter-  
5 mination that such a program is nec-  
6 essary in order to provide for the con-  
7 tinued availability of such coverage for  
8 all such businesses; and

9 (ii) is authorized by State law; or

10 (B) reinsurance program that is designed  
11 to improve private insurance markets that offer  
12 coverage described in subclause (I) or (II) of  
13 clause (i) because of a finding described in sub-  
14 clause (I) or (II), respectively, of clause (i).

15 (2) OPERATION.—The program shall meet the  
16 following requirements:

17 (A) A majority of the members of the gov-  
18 erning body of the program shall be public offi-  
19 cials.

20 (B) The State shall have a financial inter-  
21 est in the program, which shall not include a  
22 program authorized by State law or regulation  
23 that requires insurers to pool resources to pro-  
24 vide property insurance coverage for covered  
25 perils.



1           (3) TAX STATUS.—The program shall be struc-  
2           tured and carried out in a manner so that the pro-  
3           gram is exempt from all Federal taxation.

4           (4) COVERAGE.—The program shall cover only  
5           a single peril.

6           (5) EARNINGS.—The program may not provide  
7           for, nor shall have ever made, any redistribution of  
8           any part of any net profits of the program to any  
9           insurer that participates in the program.

10          (6) MITIGATION.—

11                (A) IN GENERAL.—The State operating  
12                the program shall, by law or regulation, have  
13                enacted—

14                    (i) a program to mitigate insurance  
15                    losses from natural catastrophes; and

16                    (ii) a comprehensive, modern, and  
17                    uniform statewide building code estab-  
18                    lishing minimum standards for the con-  
19                    struction and maintenance of buildings and  
20                    other structures to mitigate against future  
21                    disasters, increase public safety, and en-  
22                    hance the rebuilding of such States, with  
23                    minimum standards at least as comprehen-  
24                    sive as the model building standards and

1 codes developed by the International Code  
2 Council.

3 (B) REGULATIONS.—The Secretary shall  
4 issue regulations that establish the minimum  
5 standards for States to satisfy the mitigation  
6 requirements under subparagraph (A).

7 (7) COVERAGE.—

8 (A) IN GENERAL.—The program—

9 (i) may not involve cross-subsidization  
10 between any separate property and cas-  
11 ualty lines covered under the program un-  
12 less the elimination of such activity in an  
13 existing program would negatively impact  
14 the eligibility of the program to purchase a  
15 contract for reinsurance coverage under  
16 this Act;

17 (ii) shall include provisions that au-  
18 thorize the State insurance commissioner  
19 or other State entity authorized to make  
20 such a determination to terminate the pro-  
21 gram if the insurance commissioner or  
22 other such entity determines that the pro-  
23 gram is no longer necessary to ensure the  
24 availability of homeowners' insurance or

1 insurance for businesses, as appropriate,  
2 for all State residents or businesses; and

3 (iii) shall provide that, for any insur-  
4 ance coverage that is made available under  
5 the State insurance program and for any  
6 reinsurance coverage for such insurance  
7 coverage made available under the State  
8 reinsurance program, the premium rates  
9 charged shall be amounts that, at a min-  
10 imum, are sufficient to cover the full actu-  
11 arial costs of such coverage, based on con-  
12 sideration of the risks involved and accept-  
13 ed actuarial and rate making principles,  
14 anticipated administrative expenses, and  
15 loss and loss-adjustment expenses.

16 (B) APPLICABILITY.—This paragraph shall  
17 apply—

18 (i) before the expiration of the 2-year  
19 period beginning on the date of the enact-  
20 ment of this Act, only to State programs  
21 which, after January 1, 2005, commence  
22 offering insurance or reinsurance coverage  
23 described in subparagraph (A) or (B), re-  
24 spectively, of paragraph (1); and

1 (ii) after the expiration of such period,  
2 to all State programs.

3 (8) STATE INSURANCE PRICING LAWS.—

4 (A) REQUIREMENT TO ALLOW RISK-BASED  
5 PRICING.—Except as provided in subparagraph  
6 (B), the State operating such eligible State pro-  
7 gram may not have in effect any law or regula-  
8 tion that prohibits or prevents insurers (other  
9 than the State) from providing insurance cov-  
10 erage for losses from covered perils to any risks  
11 located in such State at premium rates which  
12 are based on consideration of the risks involved  
13 and accepted actuarial rate-making principles.

14 (B) EXCEPTION FOR CERTAIN STATE RE-  
15 SIDUAL MARKETS.—In the case of a State oper-  
16 ating a residual market insurance program for  
17 losses from covered perils to any risks located  
18 in the State, if the premium rates charged by  
19 the residual market insurance program are  
20 below the premium rates the private market  
21 would charge for similar coverage under the  
22 principles set forth in subparagraph (A), the re-  
23 sidual market insurance program must make  
24 such coverage available to any person request-

1           ing such coverage who pays the applicable pre-  
2           mium charged for such coverage.

3           (9) OTHER QUALIFICATIONS.—

4                 (A) IN GENERAL.—The State program  
5           shall (for the year for which the coverage is in  
6           effect) comply with regulations that shall be  
7           issued under this paragraph by the Secretary.  
8           The regulations shall establish criteria for State  
9           programs to qualify to purchase reinsurance  
10          under this section, which are in addition to the  
11          requirements under the other paragraphs of  
12          this subsection.

13                (B) CONTENTS.—The regulations issued  
14          under this paragraph shall include requirements  
15          that—

16                   (i) the State program have public  
17                  members on its board of directors or have  
18                  an advisory board with public members;

19                   (ii) insurance or reinsurance coverage,  
20                  as applicable, made available through the  
21                  State program not supplant coverage that  
22                  is otherwise reasonably available and af-  
23                  fordable in the private market;

24                   (iii) the State program provide ade-  
25                  quate insurance or reinsurance protection,

1 as applicable, for the peril covered, which  
2 shall include a range of deductibles and  
3 premium costs that reflect the applicable  
4 risk to eligible properties;

5 (iv) insurance or reinsurance cov-  
6 erage, as applicable, provided by the State  
7 program is made available on a non-  
8 discriminatory basis to all qualifying resi-  
9 dents or businesses;

10 (v) any new construction, substantial  
11 rehabilitation, and renovation insured or  
12 reinsured by the program complies with  
13 applicable State or local government build-  
14 ing, fire, and safety codes;

15 (vi) the State, or appropriate local  
16 governments within the State, have in ef-  
17 fect and enforce nationally recognized  
18 model building, fire, and safety codes and  
19 consensus-based standards that offer dis-  
20 aster resistance that is substantially equiv-  
21 alent or greater than the resistance under  
22 any requirements for floods, earthquakes,  
23 or wind resistance issued by the Federal  
24 Emergency Management Agency;

1 (vii) the State has taken actions to es-  
2 tablish an insurance rate structure that  
3 takes into account measures to mitigate in-  
4 surance losses;

5 (viii) there are in effect, in such State,  
6 laws or regulations sufficient to prohibit  
7 price gouging, during the term of reinsur-  
8 ance coverage under this Act for the State  
9 program, in any disaster area located with-  
10 in the State; and

11 (ix) the State program complies with  
12 such other requirements that the Secretary  
13 considers necessary to carry out the pur-  
14 poses of this Act.

15 (b) TERMS OF CONTRACTS.—Each contract under  
16 this section for reinsurance coverage under this Act shall  
17 be subject to the following terms and conditions:

18 (1) MATURITY.—The term of the contract shall  
19 not exceed 1 year or such other term as the Sec-  
20 retary may determine.

21 (2) PAYMENT CONDITION.—The contract shall  
22 authorize claims payments for eligible losses only to  
23 the eligible State program purchasing the coverage.

24 (3) RETAINED LOSSES REQUIREMENT.—For  
25 each event of a covered peril, the contract shall

1 make a payment for the event only if the total  
2 amount of insurance claims for losses, which are  
3 covered by qualified lines, occur to properties located  
4 within the State covered by the contract, and result  
5 from the event, exceeds the amount of retained  
6 losses provided under the contract (pursuant to sec-  
7 tion 7(a)) purchased by the eligible State program.

8 (4) MULTIPLE EVENTS.—The contract shall  
9 cover any eligible losses from one or more covered  
10 events that may occur during the term of the con-  
11 tract and shall provide that if multiple events occur,  
12 the retained losses requirement under paragraph (3)  
13 shall apply to each event.

14 (5) TIMING OF ELIGIBLE LOSSES.—Eligible  
15 losses under the contract shall include only insur-  
16 ance claims for property covered by qualified lines  
17 that are reported to the eligible State program with-  
18 in the 3-year period beginning upon the event or  
19 events for which payment under the contract is pro-  
20 vided.

21 (6) PRICING.—The price of reinsurance cov-  
22 erage under the contract for an eligible State pro-  
23 gram shall be an amount established by the Sec-  
24 retary for the contract, as follows:



1 (A) 1 PERCENT ABOVE MARKET RATE.—

2 Except as provided in subparagraph (B), the  
3 price of reinsurance coverage under the con-  
4 tract shall be the amount that is one percent  
5 greater than the lowest amount for which such  
6 State program can obtain equivalent coverage  
7 in the private reinsurance market, as dem-  
8 onstrated to the Secretary by the eligible State  
9 program.

10 (B) MARKET COVERAGE UNAVAILABLE.—

11 In the event that an eligible State program can  
12 not demonstrate a price for equivalent coverage  
13 in the private reinsurance market for purposes  
14 of subparagraph (A), the price of reinsurance  
15 coverage under the contract for such State pro-  
16 gram shall be the amount that is one percent  
17 greater than the lowest amount for which a pri-  
18 vate insurer with an equivalent risk portfolio  
19 can obtain equivalent coverage in the private re-  
20 insurance market, as demonstrated to the Sec-  
21 retary by the eligible State program.

22 (7) ADDITIONAL CONTRACT OPTION.—The con-  
23 tract shall provide that the purchaser of the contract  
24 may, during the term of such original contract, pur-  
25 chase additional contracts from among those offered

1 by the Secretary at the beginning of the term, sub-  
2 ject to the limitations under section 7, at the prices  
3 at which such contracts were offered at the begin-  
4 ning of the term, prorated based upon the remaining  
5 term as determined by the Secretary. Such addi-  
6 tional contracts shall provide coverage beginning on  
7 a date 15 days after the date of purchase but shall  
8 not provide coverage for losses for an event that has  
9 already occurred.

10 (8) OTHERS.—The contract shall contain such  
11 other terms as the Secretary considers necessary to  
12 carry out this Act and to ensure the long-term fi-  
13 nancial integrity of the program under this Act.

14 (c) PRIVATE SECTOR RIGHT TO PARTICIPATE.—

15 (1) ESTABLISHMENT OF COMPETITIVE PROCE-  
16 DURE.—The Secretary shall establish, by regulation,  
17 a competitive procedure under this subsection that  
18 provides qualified entities an opportunity, on a basis  
19 consistent with the contract cycle established under  
20 this Act by the Secretary, to offer to provide, in lieu  
21 of reinsurance coverage under this section, reinsur-  
22 ance coverage that is substantially similar to cov-  
23 erage otherwise made available under this section.

24 (2) COMPETITIVE PROCEDURE.—Under the  
25 procedure established under this subsection—

1           (A) the Secretary shall establish criteria  
2           for private insurers, reinsurers, and capital  
3           market companies, and consortia of such enti-  
4           ties to be treated as qualified entities for pur-  
5           poses of this subsection, which criteria shall re-  
6           quire such an entity to have at all times capital  
7           sufficient to satisfy the terms of the reinsurance  
8           contracts and shall include such other industry  
9           and credit rating standards as the Secretary  
10          considers appropriate;

11          (B) not less than 30 days before the begin-  
12          ning of each contract cycle during which any re-  
13          insurance coverage under this section is to be  
14          made available, the Secretary may request pro-  
15          posals and shall publish in the Federal Register  
16          the rates and terms for contracts for reinsur-  
17          ance coverage under this section that are to be  
18          made available during such contract cycle;

19          (C) the Secretary shall provide qualified  
20          entities a period of not less than 10 days (which  
21          shall terminate not less than 20 days before the  
22          beginning of the contract cycle) to submit to  
23          the Secretary a written expression of interest in  
24          providing reinsurance coverage in lieu of the

1 coverage otherwise to be made available under  
2 this section;

3 (D) the Secretary shall provide any quali-  
4 fied entity submitting an expression of interest  
5 during the period referred to in subparagraph  
6 (C) a period of not less than 20 days (which  
7 shall terminate before the beginning of the con-  
8 tract cycle) to submit to the Secretary an offer  
9 to provide, in lieu of the reinsurance coverage  
10 otherwise to be made available under this sec-  
11 tion, coverage that is substantially similar to  
12 such coverage;

13 (E) if the Secretary determines that an  
14 offer submitted during the period referred to in  
15 subparagraph (D) is a bona fide offer to pro-  
16 vide reinsurance coverage during the contract  
17 cycle at rates and terms that are substantially  
18 similar to the rates and terms for reinsurance  
19 coverage otherwise to be provided under this  
20 section by the Secretary, the Secretary shall ac-  
21 cept the offer (if still outstanding) and, not-  
22 withstanding any other provision of this Act,  
23 provide for such entity to make reinsurance cov-  
24 erage available in accordance with the offer;  
25 and

1 (F) if the Secretary accepts an offer pur-  
2 suant to subparagraph (E) to make reinsurance  
3 coverage available, notwithstanding any other  
4 provision of this Act, the Secretary shall reduce,  
5 to an equivalent extent, the amount of reinsur-  
6 ance coverage available under this section dur-  
7 ing the contract cycle to which the offer relates,  
8 unless and until the Secretary determines that  
9 the entity is not complying with the terms of  
10 the accepted offer.

11 **SEC. 7. MINIMUM LEVEL OF RETAINED LOSSES AND MAX-**  
12 **IMUM FEDERAL LIABILITY.**

13 (a) AVAILABLE LEVELS OF RETAINED LOSSES.—In  
14 making reinsurance coverage available under this Act, the  
15 Secretary shall make available for purchase contracts for  
16 such coverage that require the sustainment of retained  
17 losses from a single event of a covered peril (as required  
18 under section 6(b)(3) for payment of eligible losses) in var-  
19 ious amounts, as the Secretary determines appropriate  
20 and subject to the requirements under subsection (b).

21 (b) MINIMUM LEVEL OF RETAINED LOSSES.—

22 (1) IN GENERAL.—Subject to paragraphs (2)  
23 and (3) and notwithstanding any other provision of  
24 this Act, a contract for reinsurance coverage under  
25 section 6 for an eligible State program that offers

1 insurance or reinsurance coverage described in sub-  
2 paragraph (A) or (B), respectively, of section 6(a)(1)  
3 may not be made available or sold unless the con-  
4 tract requires that the State program shall sustain  
5 an amount of retained losses from a single event of  
6 a covered peril of not less than \$50,000,000,000.

7 (2) ANNUAL ADJUSTMENT.—The Secretary  
8 may annually raise the minimum level of retained  
9 losses established under paragraph (1) for an eligible  
10 State program to reflect, as determined by the Sec-  
11 retary—

12 (A) changes to the claims-paying capacity  
13 of the program;

14 (B) changes in the capacity of the private  
15 insurance and reinsurance market;

16 (C) increases in the market value of prop-  
17 erties; or

18 (D) such other situations as the Secretary  
19 considers appropriate.

20 The Secretary shall consider the minimum level of  
21 retained losses requirements in paragraphs (1) as a  
22 minimum requirement only and shall have full au-  
23 thority, effective on the date of the enactment of this  
24 Act, to establish levels of required minimum retained  
25 losses in any amount greater than the amount speci-

1       fied in such paragraph. In making any determina-  
2       tion under this paragraph in the minimum level of  
3       retained losses, the Secretary shall establish such  
4       level at an amount such that the program under this  
5       Act for making reinsurance coverage available does  
6       not displace or compete with the private insurance  
7       or reinsurance markets or capital markets, as deter-  
8       mined by the Secretary after the Secretary has pro-  
9       vided interested parties an opportunity to submit  
10      market information relevant to such determination.

11           (3) OPTIONAL ANNUAL INFLATIONARY OR EX-  
12      POSURE ADJUSTMENT.—The Secretary may, on an  
13      annual basis, raise the minimum level of retained  
14      losses established under paragraph (1) for each eligi-  
15      ble State program to reflect the annual rate of infla-  
16      tion or growth in exposures, whichever is greater.  
17      Any such raise shall be made in accordance with an  
18      inflation index or exposure index, as appropriate,  
19      that the Secretary determines to be appropriate. The  
20      first such raise may be made one year after con-  
21      tracts for reinsurance coverage under this Act are  
22      first made available for purchase.

23      (c) MAXIMUM FEDERAL LIABILITY.—

24           (1) IN GENERAL.—Notwithstanding any other  
25      provision of law, the Secretary may sell only con-

1 tracts for reinsurance coverage under this Act in  
2 various amounts which comply with the following re-  
3 quirements:

4 (A) ESTIMATE OF AGGREGATE LIABIL-  
5 ITY.—The aggregate liability for payment of  
6 claims under all such contracts in any single  
7 year is unlikely to exceed \$25,000,000,000 (as  
8 such amount is adjusted under paragraph (2)).

9 (B) ELIGIBLE LOSS COVERAGE SOLD.—El-  
10 igible losses covered by all contracts sold within  
11 a State during a 12-month period do not exceed  
12 a prescribed level of losses as determined by the  
13 Secretary:

14 (2) ANNUAL ADJUSTMENTS.—The Secretary  
15 shall annually adjust the amount under paragraph  
16 (1)(A) (as it may have been previously adjusted) to  
17 provide for inflation in accordance with an inflation  
18 index that the Secretary determines to be appro-  
19 priate.

20 (d) LIMITATION ON PERCENTAGE OF RISK IN EX-  
21 CESS OF RETAINED LOSSES.—

22 (1) IN GENERAL.—The Secretary may not  
23 make available for purchase contracts for reinsur-  
24 ance coverage under this Act that would pay out  
25 more than 50 percent of eligible losses in excess of



1 retained losses for the State of the program pur-  
2 chasing the contract.

3 (2) PAYOUT.—For purposes of this subsection,  
4 the amount of payout from a reinsurance contract  
5 shall be the amount of eligible losses in excess of re-  
6 tained losses multiplied by the percentage under  
7 paragraph (1).

8 **SEC. 8. DISASTER REINSURANCE FUND.**

9 (a) ESTABLISHMENT.—There is established within  
10 the Treasury of the United States a fund to be known  
11 as the Disaster Reinsurance Fund (in this section referred  
12 to as the “Fund”).

13 (b) CREDITS.—The Fund shall be credited with—

14 (1) amounts received annually from the sale of  
15 contracts for reinsurance coverage under this Act;

16 (2) any amounts borrowed under subsection  
17 (d);

18 (3) any amounts earned on investments of the  
19 Fund pursuant to subsection (e); and

20 (4) such other amounts as may be credited to  
21 the Fund.

22 (c) USES.—Amounts in the Fund shall be available  
23 to the Secretary only for the following purposes:

1           (1) CONTRACT PAYMENTS.—For payments to  
2 covered purchasers under contracts for reinsurance  
3 coverage for eligible losses under such contracts.

4           (2) ADMINISTRATIVE EXPENSES.—To pay for  
5 the administrative expenses incurred by the Sec-  
6 retary in carrying out the reinsurance program  
7 under this Act.

8           (3) TERMINATION.—Upon termination under  
9 section 11, as provided in such section.

10          (d) BORROWING.—

11           (1) AUTHORITY.—To the extent that the  
12 amounts in the Fund are insufficient to pay claims  
13 and expenses under subsection (c), the Secretary  
14 may issue such obligations of the Fund as may be  
15 necessary to cover the insufficiency and shall pur-  
16 chase any such obligations issued.

17           (2) PUBLIC DEBT TRANSACTION.—For the pur-  
18 pose of purchasing any such obligations, the Sec-  
19 retary may use as a public debt transaction the pro-  
20 ceeds from the sale of any securities issued under  
21 chapter 31 of title 31, United States Code, and the  
22 purposes for which securities are issued under such  
23 chapter are hereby extended to include any purchase  
24 by the Secretary of such obligations under this sub-  
25 section.

1           (3) CHARACTERISTICS OF OBLIGATIONS.—Obli-  
2           gations issued under this subsection shall be in such  
3           forms and denominations, bear such maturities, bear  
4           interest at such rate, and be subject to such other  
5           terms and conditions, as the Secretary shall deter-  
6           mine.

7           (4) TREATMENT.—All redemptions, purchases,  
8           and sales by the Secretary of obligations under this  
9           subsection shall be treated as public debt trans-  
10          actions of the United States.

11          (5) REPAYMENT.—Any obligations issued under  
12          this subsection shall be repaid, including interest,  
13          from the Fund and shall be recouped from pre-  
14          miums charged for reinsurance coverage provided  
15          under this Act.

16          (e) INVESTMENT.—If the Secretary determines that  
17          the amounts in the Fund are in excess of current needs,  
18          the Secretary may invest such amounts as the Secretary  
19          considers advisable in obligations issued or guaranteed by  
20          the United States.

21          (f) PROHIBITION OF FEDERAL FUNDS.—Except for  
22          amounts made available pursuant to subsection (d) and  
23          section 9(h), no Federal funds shall be authorized or ap-  
24          propriated for the Fund or for carrying out the reinsur-  
25          ance program under this Act.

1 **SEC. 9. DEFINITIONS.**

2 For purposes of this Act, the following definitions  
3 shall apply:

4 (1) COVERED PERILS.—The term “covered per-  
5 ils” means the perils under section 5.

6 (2) COVERED PURCHASER.—The term “covered  
7 purchaser” means an eligible State-operated insur-  
8 ance or reinsurance program that purchases reinsur-  
9 ance coverage made available under a contract under  
10 section 6.

11 (3) DISASTER AREA.—The term “disaster area”  
12 means a geographical area, with respect to which—

13 (A) a covered peril specified in section 5  
14 has occurred; and

15 (B) a declaration that a major disaster ex-  
16 ists, as a result of the occurrence of such  
17 peril—

18 (i) has been made by the President of  
19 the United States; and

20 (ii) is in effect.

21 (4) ELIGIBLE LOSSES.—The term “eligible  
22 losses” means losses in excess of the sustained and  
23 retained losses, as defined by the Secretary.

24 (5) ELIGIBLE STATE PROGRAM.—The term “eli-  
25 gible State program” means a State program that,  
26 pursuant to section 6(a), is eligible to purchase rein-

1       surance coverage made available through contracts  
2       under section 6.

3           (6) PRICE GOUGING.—The term “price  
4       gouging” means the providing of any consumer good  
5       or service by a supplier for a price that the supplier  
6       knows or has reason to know is greater, by at least  
7       the percentage set forth in a State law or regulation  
8       prohibiting such act (notwithstanding any real cost  
9       increase due to any attendant business risk and  
10      other reasonable expenses that result from the major  
11      disaster involved), than the price charged by the  
12      supplier for such consumer good or service imme-  
13      diately before the disaster.

14          (7) QUALIFIED LINES.—The term “qualified  
15      lines” means lines of insurance coverage for which  
16      losses are covered under section 4 by reinsurance  
17      coverage under this Act.

18          (8) REINSURANCE COVERAGE.—The term “re-  
19      insurance coverage under this Act” means coverage  
20      under contracts made available under section 6.

21          (9) SECRETARY.—The term “Secretary” means  
22      the Secretary of the Treasury.

23          (10) STATE.—The term “State” means the  
24      States of the United States, the District of Colum-  
25      bia, the Commonwealth of Puerto Rico, the Com-

1       monwealth of the Northern Mariana Islands, Guam,  
2       the Virgin Islands, American Samoa, and any other  
3       territory or possession of the United States.

4   **SEC. 10. REGULATIONS.**

5       The Secretary shall issue any regulations necessary  
6   to carry out the program for reinsurance coverage under  
7   this Act.

8   **SEC. 11. TERMINATION.**

9       (a) IN GENERAL.—Except as provided in subsection  
10   (b), the Secretary may not provide any reinsurance cov-  
11   erage under this Act covering any period after the expira-  
12   tion of the 10-year period beginning on the date of the  
13   enactment of this Act.

14       (b) EXTENSION.—If, upon the expiration of the pe-  
15   riod under subsection (a), the Secretary determines that  
16   continuation of the program for reinsurance coverage  
17   under this Act, or a portion of such program is necessary  
18   to carry out the purpose of this Act under section 3(b)  
19   because of insufficient growth of capacity in the private  
20   insurance market, the Secretary shall continue to provide  
21   reinsurance coverage under this Act or such portion of the  
22   program under this Act until the expiration of the 5-year  
23   period beginning upon the expiration of the period under  
24   subsection (a).

1 (c) REPEAL.—Effective upon the date that reinsur-  
 2 ance coverage under this Act is no longer available or in  
 3 force pursuant to subsection (a) or (b), this Act (except  
 4 for this section) is repealed.

5 (d) DEFICIT REDUCTION.—The Secretary shall cover  
 6 into the General Fund of the Treasury any amounts re-  
 7 maining in the Fund under section 8 upon the repeal of  
 8 this Act.

9 **SEC. 12. ANNUAL STUDY OF COST AND AVAILABILITY OF**  
 10 **DISASTER INSURANCE AND PROGRAM NEED.**

11 (a) IN GENERAL.—The Secretary shall, on an annual  
 12 basis, conduct a study and submit to the Congress a report  
 13 on the cost and availability of insurance for losses result-  
 14 ing from catastrophic disasters covered by the reinsurance  
 15 program under this Act.

16 (b) CONTENTS.—Each annual study under this sec-  
 17 tion shall determine and identify, on an aggregate basis—

18 (1) for each State, the capacity of the private  
 19 insurance market with respect to coverage for losses  
 20 from catastrophic disasters;

21 (2) for each State, the percentage of home-  
 22 owners and businesses who have such coverage, the  
 23 disasters covered, and the average cost of such cov-  
 24 erage;

1           (3) for each State, the progress that private re-  
2           insurers and capital markets have made in providing  
3           reinsurance for such homeowners' and business in-  
4           surance;

5           (4) for each State, the effects of the Federal re-  
6           insurance program under this Act on the availability  
7           and affordability of such insurance; and

8           (5) the appropriate time for termination of the  
9           Federal reinsurance program under this Act.

10          (c) TIMING.—Each annual report under this section  
11          shall be submitted not later than March 30 of the year  
12          after the year for which the study was conducted.

13          (d) COMMENCEMENT OF REPORTING REQUIRE-  
14          MENT.—The Secretary shall first submit an annual report  
15          under this section 2 years after the date of the enactment  
16          of this Act.

17      **SEC. 13. GAO STUDY OF FEDERAL PROGRAM FOR REINSUR-**  
18                              **ANCE FOR ALL SOLVENCY-THREATENING**  
19                              **EVENTS.**

20          The Comptroller General of the United States shall  
21          conduct a study of the need for a Federal program to pro-  
22          vide reinsurance for insured losses resulting from any cat-  
23          astrophic event that may threaten the solvency of any seg-  
24          ment of the catastrophe insurance industry, including all  
25          naturally and non-naturally occurring events, regardless



1 of cause, and the appropriateness of such a program to  
2 stabilize financial and insurance markets and to ensure  
3 the availability and affordability of insurance in the  
4 United States for losses from such events. The Comp-  
5 troller General shall submit to the Congress a report re-  
6 garding the conclusions of such study not later than the  
7 expiration of the 6-month period beginning on the date  
8 of the enactment of this Act.

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